

No. 46579

Commonwealth vs. EMORY G. SNELL, JR.

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| Murder | | | |
| 265/1 | | | |
| April 19, 1995 | Indictment found | | (arraignment only) Frederick Mycock 3291 Main Street Barnstable 02630 |
| " 20, " | Notice and copy of indictment to Chief Justice, Attorney General and Regional Administrative Justice (G.L. Chapter 212, Section 7) | | |
| " 21, " | Order of the Court and copy of indictment for service on defendant (G.L. Chapter 277, Section 65) | | Robert Bloomenthal Sandra Bloomenthal 445 Old Kings Hwy E. Sandwich 02537 |
| " 21, " | Appearance of Frederick C. Mycock for defendant (arraignment only) | | |
| " 21, " | Appearance of Sandra Bloomenthal for defendant | | Albert Bielitz, Jr. 675 Mass Avenue Cambridge 02139 |
| " 21, " | Pleads not guilty | | |
| " 21, " | Bail-held without bail, without prejudice, by the Court, O'Neill, J. | | |
| " 21, " | Continued to April 27, 1995, for pre-trial conference-the Court <u>may</u> address the question of bail at this time; by the Court, O'Neill, J. | | Michael O'Keefe Asst. Dist. Atty. (for Commonwealth) |
| " 21, " | Continued to August 1995 for trial, by the Court, O'Neill, J. | | |
| " 21, " | Mittimus for continuance issued | | John J. Barter 83 Atlantic Avenue Boston 02110-3711 |
| " 21, " | Mittimus for continuance returned with service | | |
| " 22, " | Appearance of Robert Bloomenthal for defendant | | |
| " 27, " | Appearance of Albert C. Bielitz, Jr., for defendant | | |
| " 27, " | 1) Defendant's motion for bill of particulars filed and allowed; one week for compliance; by the Court, O'Neill, J. | | |

Exhibit "D"

#46579

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| April | 27, | 1995 | 2)Defendant's motion to preserve police transmission and turret tapes-agreed to if tapes are available; by the Court, O'Neill, J. |
| " | 27, | " | 3)Defendant's motion for Prima Facia evidence-no action(O'Neill, J.) |
| " | 27, | " | 4)Defendants' motion for payment of counsel, experts and expenses |
| " | 27, | " | Continued to June 9, 1995, for non-evidentiary hearing, by the Court, O'Neill, J. |
| May | 2, | " | Pre-trial conference report |
| " | 18, | " | Commonwealth's Bill of Particulars |
| " | 25, | " | 5)Defendants' motion for list of persons interviewed |
| " | 25, | " | 6)Defendant's motion for the delivery of police telephone and transmission tapes |
| " | 25, | " | 7)Defendant's motion for list of persons involved in investigation |
| " | 25, | " | 8)Defendant's motion for disclosure of booking sheets |
| " | 25, | " | 9)Defendant's motion for disclosure of criminal, juvenile, arrest, parole and probation records of the victim and Commonwealth's witnesses |
| " | 25, | " | 10)Defendant's motion for inspection of hospital records |
| " | 25, | " | 11)Defendant's motion for discovery of Government's intention to use evidence of prior bad acts |
| " | 25, | " | 12)Defendant's motion for notification of confidential informants |
| " | 25, | " | 13)Defendant's motion to inspect scientific and physical evidence |
| " | 25, | " | 14)Defendant's motion in re: scientific evidence expert witnesses |
| " | 25, | " | 15)Defenadnt's motion for intra-departmental and inter-departmental records and reports |
| " | 25, | " | 16)Defendant's request for discovery pertaining to fingerprints |
| " | 25, | " | 17)Defendants' motion for production of handwritten notes and/or tape recordings of witness interviews |
| " | 25, | " | 18)Defendants' motion for photographs and/or video tapes |
| " | 25, | " | 19)Defendants' motion for production of police reports handwritten notes and tape recordings |
| " | 25, | " | 20)Defendant's motion to be furnished with statements and/or promises of rewards and inducements |
| " | 25, | " | 21)Defendant's motion to be furnished with names, addresses and dates of birth of Government witnesses |
| " | 25, | " | 22)Defendant's motion to file additional motions |
| June | 7, | " | Commonwealth's answer to defendant's motion for discovery |
| " | 9, | " | 23)Defendant's motion to restrict prosecution in addressing defendant |
| " | 9, | " | 24)Defendant's motion re: medical care |
| " | 9, | " | 25)Defendant's motion re: bullet proof vest |
| " | 9, | " | 26)Defendant's motion re: transportation |
| " | 9, | " | 27)Defendant's motion for additional library time |

Exhibit "D-2"

SHEET II

No. 48579

Commonwealth vs. EMORY G. SNELL, JR.

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Exhibit "D-3"

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| | June 9, 1995 | 28) | Defendant's motion for additional telephone access |
| | " 9, " | | Continued to June 15, 1995, for motion hearing, by the Court, Dolan, J. |
| | " 15, " | | Motions #5, #17 and #18-see answers of Commonwealth, by the Court, Dolan, J. |
| | " 15, " | | Motions #8, #12 and #20-no action(Dolan, J.) |
| | " 15, " | | Motion #9- <u>allowed</u> , to extent of Commonwealth's knowledge, by the Court, Dolan, J. |
| | " 15, " | | Motion #10- <u>allowed</u> , records to be delivered sealed-review in camera, by the Court, Dolan, J. |
| | " 15, " | | Motion #11-Commonwealth to indicate same by July 15, 1995, by the Court, Dolan, J. |
| | " 15, " | | Motion #13-hold(Dolan, J.) |
| | " 15, " | | Motion #15- <u>allowed</u> , to extent that Commonwealth has same, by the Court, Dolan, J. |
| | " 15, " | | Motion #16-further inquiry(Dolan, J.) |
| | " 15, " | | Motions #18, #21, #22, and #23-allowed, by the Court Dolan, J. |
| | " 15, " | | Motions #24 through #28-defense attorney to refer to Sheriff for action (Dolan, J.) |
| | " 15, " | 29) | Defendant's motion for funds to obtain services of private investigator |

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| June | 15, | 1995 | allowed-to \$5,000.00; Note-also-lien of Commonwealth to be filed; by the Court, Dolan, J. |
| " | 15, | " | 30)Defendant's motion for funds to obtain services of questioned document expert |
| " | 15, | " | 31)Defendant's motion for funds to obtain services of accountant as expert |
| " | 15, | " | Defendant's affidavit in support of motions #29, #30 and #31 |
| " | 15, | " | 32)Defendant's motion for deposition |
| " | 15, | " | 33)Defendant's motion for funds to obtain services of experts with affidavit in support |
| " | 15, | " | Continued to June 29, 1995, for status, by the Court, Dolan, J. |
| " | 29, | " | 34)Defendant's motion to compel filed and allowed by agreement, subject to limitations on the record; by the Court, Dolan, J. |
| " | 29, | " | Continued to July 7, 1995, for compliance; continued to July 25, 1995, for hearing on the motions; continued to August 21, 1995 for trial; by the Court, Dolan, J. |
| " | 30, | " | Memorandum of Conditions on Allowance of Motion for Funds to Obtain Services of Private Investigator, by the Court, Dolan, J. (copies to attorneys) |
| July | 17, | " | 35)Defendant's motion for independent testing with affidavit in support |
| " | 17, | " | Commonwealth's motion for reciprocal discovery |
| " | 17, | " | 36)Defendant's motion to dismiss due to destruction of evidence with affidavit and memorandum of law in support |
| " | 17, | " | 37)Defendant's motion to compel II |
| " | 17, | " | 38)Defendant's motion to suppress defendant's statements with affidavit and memorandum of law in support |
| " | 17, | " | 39)Defendant's motion to suppress the fruits of warrantless search of 1061 Putnam Avenue Extension, Marstons Mills, with affidavit in support |
| " | 17, | " | 40)Defendant's motion to suppress the fruits of search warrant upon Mitsubishi box style truck with affidavit and memorandum of law in support |
| " | 17, | " | 41)Defendants' motion to suppress the fruits of a warrantless search of Mitsubishi box style truck, Georgia Registration with affidavit and memorandum of law in support |
| " | 17, | " | 42)Defendant's motion to suppress the fruits of a search warrant executed at 1061 Putnam Avenue Extension, Marstons Mills, with affidavit and memorandum of law in support |
| " | 17, | " | 43)Defendant's motion to dismiss(McCarthy) with affidavit and memorandum of law in support |
| " | 21, | " | Motion #14 allowed without objection, and its further ordered that the State Police Crime Laboratory turn over said items to Defendant's Attorney Albert Bielitz, Jr., by the Court, Connon, J.(attorneys notified) |

Exhibit "D-4"

Commonwealth vs. EMORY G. SNELL, JR.

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Exhibit "D-5"

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| July | 25, | 1995 | Defendant's affidavit in support of motions #35-to be examined in camera (Travers, J.) |
| " | 26, | " | Commonwealth's motion for reciprocal discovery allowed, compliance by August 7, 1995, by the Court, Travers, J. |
| " | 26, | " | 44)Defendant's motion for funds to transcribe hearings filed and allowed; defendant at this time does not have funds available-if these funds become available they may be held to reimburse payment; by the Court, Travers, J. |
| " | 26, | " | Defendant's affidavit in support of motion #35-after in camera review, impounded, by the Court, Travers, J. |
| " | 26, | " | Motion #35-see record for action on motion, by the Court, Travers, J. |
| " | 26, | " | Defendant's motion for hair and blood sample-impounded-see transcript of lobby conference this date, by the Court, Travers, J. |
| Aug. | 2, | " | Commonwealth's Memorandum of Law in Opposition to the Defendant's Motions to Dismiss and Suppress |
| " | 2, | " | 45)Defendant's motion for police logs filed and allowed, by the Court, Travers, J. |
| " | 2, | " | 46)Defendant's motion for additional funds to obtain services of private investigator filed and allowed, defendant at this time does not have funds |

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| Aug. | 2, | 1995 | 47)Defendant's motion to compel III filed and allowed, except as to date contained in it; by the Court, Travers, J. |
| " | 2, | " | Continued to August 11, 1995; for status by agreement of counsel, by the Court, Travers, J. |
| " | 7, | " | Memorandum and Decision on Motion to Suppress Defendant's Statements(denied), by the Court, Travers, J.(copies to attorneys) |
| " | 7, | " | Decision on Defendant's Motions to Suppress Evidence Seized Without a Warrant(The Truck, The Defendant's Home), (denied); by the Court, Travers, J. (copies to attorneys) |
| " | 7, | " | Decision on Defendant's Motions to Suppress Evidence Seized Pursuant to Search Warrants (Search of Truck, Search of the Defendant's Home) (denied); by the Court, Travers, J. (copies to attorneys) |
| " | 8, | " | Motion #43 denied, by the Court, Travers, J.(attorneys notified, August 9, 1995) |
| " | 11, | " | 48)Defendant's motion to continue trial date with affidavit in support |
| " | 11, | " | Continued to August 14, 1995, for status and hearing on the motion to continue trial date, by the Court, Travers, J. |
| " | 14, | " | 49)Defendant's motion for additional DNA testing with affidavit in support |
| " | 14, | " | 50)Defendant's motion for indigent subpoenas |
| " | 14, | " | 51)Defendant's motion for transfer of trial |
| " | 14, | " | 52)Defendant's motion for change of veniremen |
| " | 14, | " | 53)Defendant's motion to sequester Jury |
| " | 14, | " | Decision on Pending Motions-motions #48 and #49 denied; motion #50 allowed; motions #51, #52 and #53 denied without prejudice; by the Court, Travers, J.(copies to attorneys, August 15, 1995) |
| " | 17, | " | Decision on Defendant's Motion to Dismiss Due to Destruction of Evidence, (denied); by the Court, Travers, J. (copy to attorneys) |
| " | 21, | " | Trial by Jury (Travers, J.) |
| " | 21, | " | 54)Defendant's motion for suggested questions to the Jury asked on an individual basis |
| " | 21, | " | 55)Defendant's motion for additional questions to the Jury asked on an individual basis |
| " | 22, | " | 56)Defendant's motion for a view(see record for action), by the Court, Travers, J. |
| " | 23, | " | 57)Defendant's motion in limine(preservation of record)-no action(Travers, J.) |
| " | 23, | " | 58)Defendant's motion for funds for crime scene expert-defendant to file affidavit before Court will act on the motion, by the Court, Travers, J. |
| " | 23, | " | 59)Defendant's motion in limine to prohibit evidence of prior misconduct |
| " | 23, | " | Commonwealth's Memorandum in Opposition to Defendant's Motion in Limine to Prohibit Evidence of Prior Misconduct |
| " | 23, | " | Commonwealth's Memorandum of Law in Support of Admissibility of Prior Bad Act Evidence |

Exhibit "D-6"

SHEET IV

No. 46579

Commonwealth vs. EMORY G. SNELL, JR.

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| Aug. | 23, 1995 | Defendant's statement of facts in opposition to admissibility of evidence of prior bad acts |
| " | 23, " | 60)Defendant's motion in limine(Commonwealth's witnesses) |
| " | 23, " | 61)Defendant's motion in limine to preclude the Commonwealth from introducing into evidence or showing the Jury photographs of the victim-no action (Travers, J.) |
| " | 23, " | 62)Defendant's motion in limine(victim/witness advocates) filed and denied, by the Court, Travers, J. |
| " | 23, " | 63)Defendant's motion in limine(A.D.A. displaying potential exhibits during his opening statement)-no action (Travers, J.) |
| " | 23, " | 64)Defendant's motion in limine(A.D.A. not to use the term "victim")-no action (Travers, J.) |
| " | 24, " | Affidavit in support of motion #58 |
| " | 30, " | Defendant's oral motion for required finding of not guilty at close of Commonwealth's evidence, denied, by the Court, Travers, J. |
| " | 31, " | Defendant's renewed oral motion for required finding of not guilty at close of all evidence, denied, by the Court, Travers, J. |
| " | 31, " | 65)Defendant's motion in limine to preclude Assistant District Attorney |

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| | | | from making reference to battered woman's syndrome in closing argument |
| Aug. | 31, | 1995 | 66)Defendant's motion to sequester |
| " | 31, | " | 67)Defendant's motion to request that the Court charge on defendant's failure to take the witness stand |
| " | 31, | " | 68)Defendant's motion in limine |
| Sept. | 1, | " | Verdict-guilty |
| " | 1, | " | Sentenced to the Massachusetts Correctional Institution for natural life; \$50.00 victim/witness fee assessed; by the Court, Travers, J.(Defendant deemed to have served -165- days of said sentence) |
| " | 1, | " | Defendant notified of right of Appeal pursuant to the rules of Appellate Procedure |
| " | 1, | " | Warrant to Massachusetts Correctional Institution at Cedar Junction issued with copy of indictment |
| " | 1, | " | Warrant to Massachusetts Correctional Institution at Cedar Junction returned with service |
| " | 1, | " | Motion of Albert C. Bielitz, Jr., Sandra F. Bloomenthal, Robert F. Bloomenthal for leave to withdraw appearance for defendant |
| " | 1, | " | 69)Defendants' motion for funds for a chemist(copy to Mr. Justice Travers, Jr., September 15, 1995) |
| " | 1, | " | 70)Defendant's motion for funds for a private detective(copy to Mr. Justice Travers, Jr., September 15, 1995) |
| " | 1, | " | 71)Defendant's motion for funds for mechanic(copy to Mr. Justice Travers, Jr., September 15, 1995) |
| " | 1, | " | 72)Defendant's motion for funds for a meteorologist(copy to Mr. Justice Travers, Jr., September 15, 1995) |
| " | 1, | " | Defendant's notice of Appeal(copy to District Attorney and Mr. Justice Travers, Jr. notified, September 11, 1995) |
| " | 8, | " | Affidavit (3) in support of motions #69, #71 and #72 |
| " | 11, | " | Certificate (3) re order for Transcript(copy to Court Reporter Daniel E. Horgan, Linda L. Kelly, and Caroline M. Marshall-Smith) |
| " | 11, | " | Defendant's appeal to Appellate Division for a review of the sentence(Mr. Justice Travers, Jr., and Appellate Division notified, September 25, 1995) |
| " | 27, | " | Transcript of Motion to Suppress Hearing (2 volumes) |

Exhibit "D- 8"

SHEET V

No. 46579

Commonwealth vs. EMORY G. SNELL, JR.

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| October 23, 1995 | Motions #69, #70, and #72-Allowed, defendant at this time does not have funds available, they may be held to reimburse payment, by the Court, Travers, J. (Attorneys notified) |
| " 23, " | Motion of Sandra Bloomenthal, Robert Bloomenthal, and Albert C. Bielitz, Jr., for leave to withdraw appearance for defendant, allowed, by the Court, Travers, J. (Attorneys notified) |
| " 23, " | Notice of assignment of Committee for Public Counsel Services, as counsel for defendant, for appeal, by the Court, Travers, J. |
| Nov. 2, " | \$50.00 victim/witness fee paid |
| " 20, " | Commonwealth's motion for order of payment-allowed-subject to same terms and conditions contained in the Memorandum of Dolan, J., dated June 30, 1995; by the Court, O'Neill, J. (Attorneys notified) |
| " 27, " | 73)Defendant's Motion for Enlargement of Time Pursuant to M.R. Crim. P. 29(A) with Memorandum and Affidavit in Support (Copies to District Attorney and Mr. Justice Travers December 5, 1995) |
| Dec. 12, " | Notice of appearance of John J. Barter for defendant, for appeal |
| Jan. 18, 1996 | Re: defendant's motion #73-This Court has no authority to grant the request. Moreover, the rule does not apply to defendant's sentence. The motion is |

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| | | | therefore, denied without hearing; by the Court, Travers, J. (Attorneys and defendant notified, January 23, 1996) |
| May | 13, | 1996 | Transcript of Motion to Suppress Hearing (3 volumes) |
| " | 13, | " | Transcript of Motion to Continue Hearing (1 volume) |
| * " | 13, | " | Transcript of Testimony (9 volumes) |
| Aug. | 14, | " | Transcript of Testimony (1 volume) |
| Sept. | 26, | " | Attorneys and Clerk of the Supreme Judicial Court notified record assembled in accordance with Appellate Rule 9 |
| * May | 30, | " | 74) Defendant's motion to return all property not specifically held for evidence or as exhibit on Commonwealth's list of evidence or exhibits and affidavit of indigency and request for waiver with affidavit in support (copy to Attorney June 3, 1996) |
| Nov. | 3, | " | Order from Supreme Judicial Court on defendant's petition for relief pursuant to G.L. c. 278, §33E -- ORDERED that the appellate proceedings in this case be stayed pending the outcome of his motion for new trial. It is further ORDERED that the defendant's motion for new trial be, and it is hereby, remanded for determination to the Barnstable Division, case number #46579, Superior Court Department of the Trial Court; by the Court, Jean M. Ken Clerk (October 30, 1997, at Boston) |
| " | 3, | " | 75) Defendant's motion for post conviction relief with memorandum in support (copy to Travers November 12, 1997) |
| Feb. | 11, | 1998 | Decision on motion for Post Conviction Relief - Denied without a hearing, by the Court, Travers, J. (sitting at Worcester Superior Court, February 9, 1998) (Attorneys notified) |
| March | 10, | " | Defendant's notice of appeal from denial of motion for post conviction relief (Copy to District Attorney and Mister Justice Travers and Supreme Judicial Court notified, March 23, 1998) |
| " | 10, | " | 76) Defendant's motion for reconsideration of decision on motion for post conviction relief |
| " | 16, | " | Re-defendant's motion #76-motion for reconsideration denied without a hearing, by the Court, Travers, J. (sitting at Worcester Superior Court, March 11, 1998) (Attorneys notified March 1 1998) |
| " | 23, | " | Attorneys and Clerk of the Supreme Judicial Court notified record assembled in accordance with Appellate Rule 9 |
| " | 25, | " | Defendant's notice of appeal from orders and judgments including the denial of motion for reconsideration for post conviction relief on March 11, 1998, (copy to District Attorney and Mister Justice Travers and Supreme Judicial Court notified, March 30, 1998) |
| April | 27, | " | Transcript of Testimony (Addendum) (1 Volume) |
| " | 29, | " | Attorneys and Clerk of the Supreme Judicial Court Notified record assembled in accordance with Appellate rule 9 |
| March | 5, | 1999 | Rescript (February 2, 1999) filed--judgment affirmed. |

Exhibit "D-10"

SHEET VI

No. 46579

Commonwealth vs. EMORY G. SNELL, JR.

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| Dec. 20, 1999 | 77) Defendant's pro-se motion for a new trial with affidavit in support |
| " 20, " | 78) Defendant's pro-se motion for assignment of counsel with affidavit in support |
| Mar. 16, 2000 | Memorandum of Decision and Order on Defendant's Motion for New Trial, <u>DENIED</u> , by the Court, Cannon, J. (copies to defendant and Assistant District Attorney) |
| Dec. 13, " | Order for Destruction of Records, by the Court, O'Neill, J. |

A true copy, Attest:

Barry D. Weed

Assistant Clerk